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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,470	04/22/2005	Maarten Peter Bodlaender	NL 021061	1608

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EXAMINER	
PARK, JEONG S	

ART UNIT	PAPER NUMBER
2454	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/532,470	BODLAENDER, MAARTEN PETER	
	Examiner	Art Unit	
	JEONG S. PARK	2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 November 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This communication is in response to Application No. 10/532470 filed on 4/22/2005. The amendment presented on 11/3/2009, which amends claims 1-15, provides change to the abstract, and adds new claims 16-19, is hereby acknowledged. Claims 1-19 have been examined.

Specification

2. The amendment to the abstract has been considered and is acceptable.

Claim Rejections - 35 USC § 112

3. The amendment presented on 11/3/2009 amending claims 1-15 obviates the outstanding 35 USC 112 rejections, and they are hereby withdrawn.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 14 is rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a

different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The method of outputting content items, comprising outputting, determining, estimating, and searching, is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent. In the broadest reasonable interpretation is claims appear to be directed towards an abstract idea and thus not statutory.

Correction is required.

Response to Arguments

6. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durden et al. (hereinafter Durden)(U.S. Pub. No. 2004/0261099) in view of Matz (U.S. Pub. No. 2004/0261096).

Regarding claims 1 and 13-15, Durden teaches as follows:

Methods for enabling viewers to control and manage the presentation of programs based on specified types of rating categories and content attributes that the viewer desires not to be presented (see, e.g., abstract);

an apparatus (presentation control system 26 in figure 1) for outputting media content items (see, e.g., paragraph [0043]), the apparatus comprising:

an output device arranged to output a first media content item to a user (the program content is displayed on devices such as television 28 in figure 1, see, e.g., paragraph [0042]);

a timer arranged to determine a duration of said first media content item (each program is divided into multiple consecutive data frames 42 in figure 2, see, e.g., paragraph [0044]. Therefore all frames n to m indicate a duration of the program);

a selector arranged for receiving a command to replace said first media content item at a particular time while outputting said first media content item (at the second timestamp offset, the presentation control system switch to an alternative audio track indicated by the user's parental control settings, see, e.g., paragraph [0076] and table III);

a time-estimating device arranged to estimate upon receipt of said command, a remaining time necessary for outputting a remaining part of said first media content item, the remaining time being measured from substantially said particular time to an end of the duration of said first media content item (timestamp associates program

content and program control data with a particular time interval within a program, see, e.g., paragraph [0060]. Therefore, it can estimate remaining time, see, e.g., figure 3);

any blocking and replacement that resulted from the previous timestamp can be reset (see, e.g., paragraph [0077] and table 3). Therefore the duration of any alternative or replacement is equal to the undesired number of frames; and

the program control data contains information about other channels or streams or other locations where replacement program data are present.

Therefore, Durden does not teach of searching for the replacement media content item.

Matz teaches as follows:

The user may be automatically or manually provided a list of content items to choose from for substitution (see, e.g., paragraph [0163]); and

the preferred substitute content is selected to correspond with the time duration (equivalent to applicant's remaining time) of the content that is blocked (see, e.g., paragraph [0165]).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Durden with Matz to include providing substitute content from a local content storage or a server as taught by Matz in order to provide the substitute content based on user preference.

Regarding claim 2, Durden teaches all limitations except for searching the second media content item.

Matz teaches of the deficiency as presented above in claim 1.

Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to modify Durden with Matz to include subtracting searching time from the remaining time in order to correctly estimate the actual length of substitute content to search.

Regarding claim 3, Durden teaches as follows:

Said output device is arranged to adjust the output of said at least one second media content item to said remaining time (any blocking and replacement that resulted from the previous timestamp can be reset according to the timestamp, see, e.g., paragraph [0077] and table 3).

Regarding claim 4, Durden teaches as follows:

Said output device is arranged to fade out the output of said at least one second media content item upon expiration of said remaining time (turn off any blocking or modifications that resulted from the previous timestamp, see, e.g., paragraph [0080]).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Durden with Matz to include fade out when turning off current content.

Regarding claim 5, Durden teaches as follows:

A database (program data server 24 in figure 1) for maintaining durations of the media content items (program data server provides multiple types of programming and related data, see, e.g., paragraph [0042]), wherein said time estimating device is arranged to determine a duration of said first media content item by identifying said first media content item in the database (each program is divided into multiple consecutive

data frames 42 in figure 2, see, e.g., paragraph [0044]. Therefore it can estimate the duration of the program).

Regarding claim 6, Durden teaches as follows:

A receiver is arranged to receive broadcast media content items (data/content providers (14 in figure 1) which may provide traditional broadcast or cable television programming, see, e.g., paragraph [0041]); and

a monitoring device arranged to identify a particular broadcast media content item and to store in said database a duration of said particular broadcast media content item upon completion of receiving said particular broadcast media content item (timestamped delivery delivers all data for an entire program, see, e.g., paragraph [0050]).

Regarding claim 7, Matz teaches as follows:

Said search device is arranged to search for said at least one second media content item in the database (the load operation loads substitute content from the server, see, e.g., paragraph [0157] or from local content storage, see, e.g., paragraph [0159]).

Therefore it is rejected for similar reason as presented above in claim 1.

Regarding claim 8, Matz teaches as follows:

Said search device is arranged to establish for the first media content item being outputted a substitution list having at least one element indicating the at least one second media content item to be used for replacing said first media content item at the particular time of outputting said first media content item (the user may be automatically

or manually provided a list of content items to choose from for substitution, see, e.g., paragraph [0163]).

Therefore it is rejected for similar reason as presented above in claim 1.

Regarding claim 9, Matz teaches as follows:

Said search device is further arranged to select one of the second media content items having the duration which is substantially equal to said remaining time, based on user preferences of the user (the preferred substitute content is selected to correspond with the time duration (equivalent to applicant's remaining time) of the content that is blocked, see, e.g., paragraph [0165]).

Therefore it is rejected for similar reason as presented above in claim 1.

Regarding claim 10, Durden teaches as follows:

Said search device is further arranged to indicate a dislike of the user of said first media content item in the user preferences (view presentation profile, see, e.g., paragraph [0086] and figure 6).

Regarding claims 11 and 12, Durden teaches as follows:

The program or programming (equivalent to applicant's media content) is any electronic presentation of information such as text, audio, video, graphics, or any other form of multimedia (see, e.g., paragraph [0036]); and

data/content providers (14 in figure 1) which may provide traditional broadcast or cable television programming (see, e.g., paragraph [0041]).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Durden in view of Matz to include radio broadcast programs in order to efficiently apply parental control for radio broadcasting programs.

Regarding claim 16, Durden teaches as follows:

The program or programming (equivalent to applicant's media content) is any electronic presentation of information such as text, audio, video, graphics, or any other form of multimedia (see, e.g., paragraph [0036]); and

data/content providers (14 in figure 1) which may provide traditional broadcast or cable television programming (see, e.g., paragraph [0041]).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Durden in view of Matz to include a song as a media content.

Regarding claims 17 and 18, Durden teaches as follows:

In response to the command, the output device is configured to interrupt outputting the first media content item upon expiration of a search time or finding the at least one second media content item (presentation control system switches to an alternative track if the rating s and content attributes exceed those indicated by the user's parental control settings, see, e.g., paragraph [0076]).

Durden does not teach of searching for the replacement media content item.

Matz teaches as follows:

The user may be automatically or manually provided a list of content items to choose from for substitution (see, e.g., paragraph [0163]); and

the preferred substitute content is selected to correspond with the time duration (equivalent to applicant's remaining time) of the content that is blocked (see, e.g., paragraph [0165]).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Durden with Matz to include providing substitute content from a local content storage or a server as taught by Matz in order to provide the substitute content based on user preference.

Regarding claim 19, Matz teaches as follows:

The substitution list is renewed whenever a new first media content is outputted by the output device (the user may be automatically or manually provided a list of content items to choose from for substitution, see, e.g., paragraph [0163]); and

the preferred substitute content is selected to correspond with the time duration of the content that is blocked (see, e.g., paragraph [0165]).

Therefore it is rejected for similar reason as presented above in claim 1.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEONG S. PARK whose telephone number is (571)270-1597. The examiner can normally be reached on Monday through Friday 7:00 - 3:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. S. P./
Examiner, Art Unit 2454

July 9, 2010

/NATHAN FLYNN/

Supervisory Patent Examiner, Art Unit 2454